



September 30, 2022

Honorable Judge Jessica S. Allen
United States District Court
District of New Jersey
Mitchell H. Cohen Building
& U.S. Courthouse
4th & Cooper Streets
Camden, NJ 08101

RE: Joseph Failla v. George's Food, LLC, et al.
Civil Action No.: 2:20-cv-07109-BRM-JSA

Dear Judge Allen,

Consistent with Your Honor's instruction at the pretrial conference on August 24, 2022, the parties have conferred regarding further efforts to resolve this matter and anticipated Motions in Limine and jointly submit this letter to the Court.

With reference to potential resolution, if Your Honor is still willing, the parties would appreciate having a settlement conference with Your Honor before pursuing any further private mediation sessions. Both sides would respectfully request that the conference be held virtually, and Defendants' excess insurance carrier's adjuster requests that the conference be in early December.

Below is a list of the Plaintiff's and Defendants' anticipated Motions in Limine. The parties believe that some of these motions may be able to be resolved by agreement prior to trial.

Defendants' Anticipated Motions in Limine

Defendants intend to file Motions in Limine in this matter to preclude:

1. The expert report and testimony of Joseph J. McHugh. McHugh's testimony is unqualified, unreliable, and/or unfit.

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2. The expert report and testimony of Joseph J. McHugh relating to Brown's intent and conduct prior to the incident. McHugh's testimony is unreliable, unfit, and/or constitutes as bare conclusions of subjective belief/speculation.
3. The expert report and testimony of Joseph J. McHugh relating to McHugh's calculation of Brown's stopping distance. McHugh's testimony is unreliable and/or unfit.
4. Any and all testimony and/or evidence, including the expert report and testimony of Adam Grill, relating to Brown's alleged fatigue at the time of the incident. Grill's testimony relating to Brown's alleged fatigue is unreliable.
5. Any and all testimony and/or evidence, including the expert report and testimony of Adam Grill, relating to Brown's alleged distraction at the time of the incident. Grill's testimony relating to Brown's alleged distraction is unreliable.
6. Any and all testimony and/or evidence relating to Brown's lane departure warnings. Evidence of Brown's lane departure warnings are irrelevant and prejudicial.
7. Any and all testimony and/or evidence relating to Brown's previous and/or subsequent accidents. Evidence of previous and/or subsequent accidents is prejudicial.

Defendants reserve the right to file additional Motions in Limine.

Plaintiff's Anticipated Motions in Limine

Plaintiff intends to file Motions in Limine in this matter to preclude:

1. The expert report and testimony of Defendants' expert, Kevin Tully, to the extent that he offers opinions beyond the scope of his expertise.
2. The expert report and testimony of Defendants' expert, Michael A. O'Dell, to the extent that he offers opinions beyond the scope of his expertise.
3. Any and all conclusions in the police report relating to the police officer's opinion as to the ultimate cause of the subject accident.

We appreciate the Court's consideration.

Respectfully Submitted,



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